

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BANKRUPTCY ESTATE OF CHIEN HWA
LEACHMAN, AKA CHIEN HWA WANG,
CHIEN HWA WANG-LEACHMAN by
ARTHUR BRUNWASSER, Authorized
Agent,

No. C-12-4072 EMC

ORDER

Plaintiff,

v.

MICHELLE HARRIS, STEVEN STOLTZ
DBA STOLTZ FAMILY LAW PRACTICE,
DOES 1 THROUGH 20, INCLUSIVE,

Defendants.

TO ALL PARTIES AND COUNSEL OF RECORD:

The Court is in receipt of the parties' briefs regarding Defendants' motion to dismiss, scheduled for hearing on December 14, 2012 at 2:30pm. Having reviewed the briefs, the Court requests the parties be prepared to discuss at the hearing whether the ability of the court or trustee to appoint a non-disinterested representative (such as a creditor) on behalf of the estate in a Chapter 7 context is limited to avoidance actions or extends to other third-party suits such as the action in the instant case. *See* 11 U.S.C. § 327(a) (requiring any such representative be "disinterested"); *In re Parmetex, Inc.*, 199 F.3d 1029, 1031 (9th Cir. 1999) ("Although Defendants are correct that a trustee must generally file an avoidance action under Chapter 7, we hold that under these particular circumstances-where the trustee stipulated that the Creditors could sue on his behalf and the bankruptcy court approved that stipulation-the Creditors had standing to bring the suit."); *Estate of*

1 *Spiritos v. One San Bernardino County Super. Ct. Case Numbered SPR 02211*, 443 F.3d 1172, 1176
2 (9th Cir. 2006) (holding that the plaintiff “as a creditor of the estate who did not receive
3 authorization to sue from the trustee, lacks standing to assert a RICO claim on behalf of the estate,”
4 thereby implying that, had she received such authorization, she would have had standing).

5 The parties should also be prepared to discuss whether Arthur Brunwasser has a potential
6 conflict of interest in this litigation given his representation of Chien Hwa Leachman prior to the
7 involvement of Defendant the Stoltz Family Law Practice and the fact that Defendants allege that
8 the sanctions that are at the heart of Plaintiff’s legal malpractice claim resulted from conduct that
9 occurred during Mr. Brunwasser’s representation of Ms. Leachman. *See* Defs.’ Mot. to Dismiss,
10 Docket No. 10, at 4:26-6:10.

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12 Dated: December 13, 2012



EDWARD M. CHEN
United States District Judge